

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**CLIFTON R. SIMPSON,  
Plaintiff,**

**v.**

**UNITED STATES OF AMERICA,  
Defendant.**

*In re: Clifton R. Simpson v. Stephanie Deletee  
Waithe, Case No. GV20020367-00, General  
District Court for the City of Norfolk*

**Civil Action No. 2:20cv592**

**NOTICE OF SUBSTITUTION**

PLEASE TAKE NOTICE that, pursuant to the Federal Employees Liability Reform and Tort Compensation Act, 28 U.S.C. § 2679 (the “Westfall Act”), the United States of America is hereby substituted for the individual defendant, Stephanie Deletee Waithe, with respect to Clifton R. Simpson’s tort claim herein. The grounds for this substitution are as follows:

1. Stephanie Deletee Waithe, an employee of the United States Postal Service (“USPS”) in Norfolk, Virginia, has been named as a defendant in an action styled *Simpson v. Waithe*, GV20020367-00, which was filed in the City of Norfolk General District Court on October 28, 2020. Ms. Waithe is employed by USPS as a mail carrier. Mr. Simpson alleges he sustained personal injuries resulting from an auto accident purportedly caused by Ms. Waithe’s negligence. Mr. Simpson seeks \$25,000 in damages, plus interest and costs. Mr. Simpson’s action sounds in tort.

2. The exclusive remedy for persons claiming damages for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful acts or omissions of federal employees taken within the scope of their office or employment lies in a suit against

the United States of America under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2401(b), 2671 et seq. (“FTCA”), as amended by the Westfall Act.

3. Upon certification by the Attorney General or his designee that an individual defendant was acting within the scope of her federal office or employment at the time of the incident out of which a state or common law tort claim arises, any civil action arising out of the incident shall be deemed an action against the United States, and the United States shall be substituted as the sole defendant with respect to the claim. 28 U.S.C. § 2679(d). The Attorney General has delegated certification authority to the United States Attorney. 28 C.F.R. § 15.4.

4. G. Zachary Terwilliger, U.S. Attorney for the Eastern District of Virginia, has certified that at the time of the conduct alleged, Ms. Waithe was acting within the scope of her employment as an employee of the United States. *See* ECF No. 1-2.

Accordingly, the United States of America has been substituted by operation of law as the sole defendant with respect to Plaintiff Simpson’s tort claim in this action, and Ms. Waithe is dismissed as a defendant in this action. *See* 28 U.S.C. § 2679(d)(2).

Respectfully submitted,

UNITED STATES OF AMERICA,  
Defendant

G. ZACHARY TERWILLIGER  
United States Attorney

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*Counsel for United States of America*

**CERTIFICATE OF SERVICE**

I hereby certify that, on the 24th day of November, 2020, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of electronic filing (NEF) to all registered e-filers.

I hereby certify that, on this 24th day of November, 2020, I will cause a true and correct copy of the foregoing document to be mailed by U.S. first class mail, postage prepaid, addressed to the following:

Robert C. Neeley, Jr., Esq.  
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*Counsel for Plaintiff Clifton R. Simpson*

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